

STATE OF TENNESSEE

Office of the Attorney General



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Reply to:  
Consumer Advocate and Protection Division  
Post Office Box 20207  
Nashville, TN 37202

May 24, 2004

Honorable Deborah Taylor Tate  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**IN RE: TENNESSEE COALITION OF RURAL INCUMBENT TELEPHONE  
COMPANIES AND COOPERATIVES REQUEST FOR SUSPENSION OF  
WIRELINE TO WIRELESS NUMBER PORTABILITY OBLIGATIONS  
PURSUANT TO SECTION 251(F)(2) OF THE COMMUNICATIONS ACT  
OF 1934, AS AMENDED**

**Docket No: 03-00633**

Dear Chairman Tate

Enclosed is an original and thirteen copies of the Consumer Advocate and Protection Division's Discovery Responses in the docket mentioned above. Please file same in this docket. Copies are being sent to all parties of record.

Should you have any questions, please contact me at 615-741-3533. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Phillips".  
Timothy C. Phillips  
Assistant Attorney General

CC. All Parties of Record.

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**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>TENNESSEE COALITION OF RURAL</b>	)	
<b>INCUMBENT TELEPHONE</b>	)	
<b>COMPANIES AND COOPERATIVES</b>	)	
<b>REQUEST FOR SUSPENSION OF</b>	)	<b>DOCKET NO. 03-00633</b>
<b>WIRELINE TO WIRELESS NUMBER</b>	)	
<b>PORTABILITY OBLIGATIONS</b>	)	
<b>PURSUANT TO SECTION 251(F)(2) OF</b>	)	
<b>THE COMMUNICATIONS ACT OF</b>	)	
<b>1934, AS AMENDED</b>	)	

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**CONSUMER ADVOCATE'S DISCOVERY RESPONSES**

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Comes now Paul G. Summers, the Attorney General for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of the Attorney General (hereinafter "Consumer Advocate"), and serves these discovery responses upon the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives ("Coalition"), pursuant to Rules 26, 33 and 34 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg 1220-1-2-.11.

**SPECIFIC DISCOVERY REQUESTS AND RESPONSES**

1. Please state the CAPD's position on who should bear the entirety of the costs incurred by a Coalition member for implementation of intermodal local number portability. If the CAPD's position is that the rural wireline carrier should pay for the implementation, please explain all reasons, factual and legal, for that position. If the CAPD's position is otherwise, please give all factual and legal reasons for that position.

**RESPONSE:** The Consumer Advocate objects to this request on the ground that it calls for

information protected by the attorney work product doctrine and the attorney-client privilege. The Consumer Advocate objects to this request in that any communications made as part of trial preparations and in anticipation of litigation are protected from discovery under Rule 26 of the Tennessee Rules of Civil Procedure. The Consumer Advocate objects to this interrogatory on the ground that it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this docket. Without waiving these objections, it is the Consumer Advocate's understanding that the FCC has ordered the implementation of intermodal local number portability. The concept of who should bear the burden of establishing the mechanism for and the costs associated with implementation of intermodal local number portability does not appear to be relevant to the issues in this docket. It is the Consumer Advocate's understanding that the Coalition is on course to implement intermodal local number portability. To the extent the Coalition believes that agreements of any sort between some or all of the parties involved should be established, then the Coalition should proceed with that plan. If the parties are not capable of long term solutions, then interim agreements might be considered. However, it does not appear that the FCC is concerned about the issues the Coalition seeks to interject in this docket. If such a concern is real then it would appear the proper venue for readdressing the FCC's ruling(s) is before the FCC or the appropriate appeal venue.

2. Of the Coalition member, wireless provider, or third party, please state the CAPD's position on who should bear the costs incurred by a Coalition member for the transport of a call to an end user served by a number ported to a wireless provider where the wireless provider has no physical point of interconnection on the Coalition members' network, and no business terms and conditions exist regarding the exchange of traffic through such physical point of interconnection.

If the CAPD's position is that the Coalition member should bear the costs, please give all factual and legal reasons for that position.

**RESPONSE:** See response to request No. 1.

3. Please state the CAPD's position on how calls to a ported number should be routed by the Coalition member.

**RESPONSE:** See response to request No. 1.

4. State in detail the legal and factual basis for any objection or opposition CAPD has with respect to any aspect of the suspension requested by the Coalition in this docket.

**RESPONSE:** See response to request No. 1. Without waiving any stated objection, the Consumer Advocate notifies the requesting party that this Office is still conducting its investigation in this matter and is awaiting responses to its discovery requests and will supplement this response as appropriate. Additionally, please reference the previous filings by the parties to this docket.

5 Please confirm that the CAPD does not dispute the costs set forth by each Coalition member in the Amended Petition on pages 10-14. If the CAPD's response is anything but an unqualified confirmation, please provide the legal and factual basis for the response.

**RESPONSE:** See response to request No. 1. Without waiving any stated objection, the Consumer Advocate states that it does dispute the incomplete and unverified allegations specified in this request. Additionally, please reference the previous filings by the parties to this docket.

6. Please confirm that he [sic] CAPD does not dispute the dates of in-office LNP technical, hardware, or software deployment, as provided in Attachment A to the Coalitions' Amended Petition. If the CAPD's response is anything but an unqualified confirmation, please provide the legal and factual basis for the response.

**RESPONSE:** See response to request No. 1. Without waiving any stated objections the Consumer Advocate states that it does dispute the dates specified based on representations made by the Coalitions' legal counsel on May 10, 2004 indicating that several of the projections were no longer accurate.

7. Please provide all details associated with any request by any customer of a Coalition member to port a wireline number to a wireless carrier that has been made by such customer to the CAPD. For purposes of the CAPD's response, the term "details" shall include the scope of the request, the Coalition member serving the customer, the date of the request, and the name and address of the customer.

**RESPONSE:** The Consumer Advocate is not aware of any such request made directly to this office. Without waiving any stated objection, the Consumer Advocate notifies the requesting party that this office is still conducting its investigation in this matter and is awaiting responses to its discovery requests.

8. Identify each person whom you expect to call as an expert witness at any hearing in this docket, and for each such expert witness:

(a) identify the field in which the witness is to be offered as an expert;

**RESPONSE:** The Consumer Advocate objects to this request. This request seeks information not discoverable pursuant to Tenn. R. Civ. P. 26.02(3)&(4). Without waiving this objection, the Consumer Advocate notifies the requesting party that this Office is still conducting its investigation in this matter and is awaiting responses to its discovery requests. Accordingly, witnesses have not yet been determined nor have they prepared their testimony for this case. If testimony is prepared and filed, it will be provided. This testimony will contain the identity of any

expert witness, the subject matter regarding the issues addressed, the substance of the facts and opinion regarding the issues addressed and a summary of the grounds for each opinion. To the extent this request calls for anything more than the testimony and exhibits of Consumer Advocate expert witnesses, the Consumer Advocate objects on the ground that it is overly broad and burdensome because any relevant information discoverable within the scope of Tenn. R. Civ. P. 26 will be provided in the pre-filed testimony which will be filed well in advance of the hearing on the merits.

(b) provide complete background information, including the expert's current employer as well as his or her educational, professional and employment history, and qualifications within the field in which the witness is expected to testify, and identify all publications written or presentations presented in whole or in part by the witness;

**RESPONSE:** See response to request No. 8(a).

(c) provide the grounds (including without limitation any factual bases) for the opinions to which the witness is expected to testify, and provide a summary of the grounds for each such opinion;

**RESPONSE:** See response to request No. 8(a).

(d) identify any matter in which the expert has testified (through deposition or otherwise) by specifying the name, docket number and forum of each case, the dates of the prior testimony and the subject of the prior testimony, and identify the transcripts of any such testimony;

**RESPONSE:** See response to request No. 8(a).

(e) identify for each such expert any person whom the expert consulted or otherwise communicated with in connection with his expected testimony;

**RESPONSE:** See response to request No. 8(a).

(f) identify the terms of the retention or engagement of each expert including but not limited to

the terms of any retention or engagement letters or agreements relating to his/her engagement, testimony, and opinions as well as the compensation to be paid for the testimony and opinions;

**RESPONSE:** See response to request No. 8(a).

(g) identify all documents or things shown to, delivered to, received from, relied upon, or prepared by any expert witness, which are related to the witness(es)' expected testimony in this case, whether or not such documents are supportive of such testimony, including without limitation all documents or things provided to that expert for review in connection with testimony and opinions;

**RESPONSE:** See response to request No. 8(a).

(h) identify any exhibits to be used as a summary of or support for the testimony or opinions provided by the expert.

**RESPONSE:** See response to request No. 8(a).

9. Please produce copies of any and all documents referred to or relied upon in responding to the Coalition's discovery requests.

**RESPONSE:** See response to request No. 8(a). Without waiving any stated objections, the Consumer Advocate states that the documents and things referred to, not generally available to the public, are attached herewith or are available for inspection at the Office of the Tennessee Attorney General.

10. Please provide all material provided to, reviewed by or produced by any expert or consultant retained by CAPD to testify or to provide information from which another expert will testify concerning this case.

**RESPONSE:** See response to request No. 8(a).

11. Please produce all work papers of any of CAPD's proposed experts, including but not limited to file notes, chart notes, tests, test results, interview and/or consult notes and all other file

documentation that any of CAPD's expert witnesses in any way used, created, generated or consulted by any of CAPD's expert witnesses in connection with the evaluation, conclusions and opinion in the captioned matter.

**RESPONSE:** See response to request No. 8(a).

12. Please produce a copy of all trade articles, journals, treatises and publications of any kind in any way utilized or relied upon by any of CAPD's proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in the captioned matter.

**RESPONSE:** See response to request No. 8(a).

13. Please produce a copy of all documents which relate or pertain to any factual information provided to, gathered by, utilized or relied upon by any of CAPD's proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in the captioned matter.

**RESPONSE:** See response to request No. 8(a).

14. Please produce a copy of all articles, journals, books or speeches written by or co-written by any of CAPD's expert witnesses, whether published or not.

**RESPONSE:** The documents and things sought, not generally available to the public, are attached herewith or are available for inspection at the Office of the Tennessee Attorney General.

15. Please produce any and all documentation, items, reports, data, communications, and evidence of any kind that CAPD intends to offer as evidence at the hearing or to refer to in any way at the hearing.

**RESPONSE:** See response to request No. 8(a). The Consumer Advocate objects to this request on the grounds that it calls for information protected by the attorney work product doctrine and the attorney-client privilege. Further, any communications made as part of trial preparations and in anticipation of litigation are protected under Rule 26 of the Tennessee Rules of Civil Procedure.



16. Please produce all documents that refer or relate to the subject matter of the CAPD's responses to Request Nos. 1 - 7.

**RESPONSE:** See responses to requests Nos. 1-7 and 15.

17. Please identify by name, address, employer, and current telephone number, all persons having knowledge of the subject matter of the CAPD's responses to Request Nos. 1 - 7.

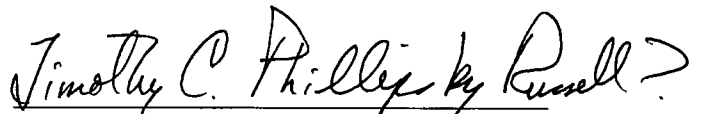
**RESPONSE:** See responses to requests Nos. 1-7 and 15.

18. Please list all witnesses you expect will provide testimony at the hearing of this matter, including their name, address, and a summary of the scope of their testimony.

**RESPONSE:** See response to request No. 8(a). In addition, the Consumer Advocate objects to this interrogatory on the ground that it is not required to provide a witness list with summaries.

*See Strickland v. Strickland*, 618 S.W.2d 496, 499 (Tenn. Ct. App. 1981).

RESPECTFULLY SUBMITTED,



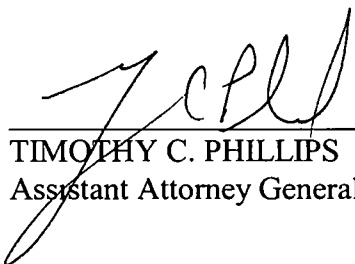
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Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 741-8700

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via hand delivery or facsimile on May 24, 2004, upon:

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